1 DONALD H. HELLER, SBN 55717 DONALD H. HELLER, 2 A Law Corporation 655 University Avenue, Suite 215 3 Sacramento, CA 95825 4 Tel: (916) 974-3500 Fax: (916) 927-2009 5 E-mail: dheller@donaldhellerlaw.com 6 7 ATTORNEYS FOR DEFENDANT **DWAYNE MCGEE** 8 9 IN THE UNITED STATES DISTRICT COURT 10 FOR THE EASTERN DISCTRICT OF CALIFORNIA 11 UNITES STATES OF AMERICA **CASE NO. 2:09-CR-184 MCE** 12 Plaintiff, APPLICATION FOR RULE 10 WAIVER 13 OF PERSONAL APPEARANCE AT **ARRAIGNMENT; AND** VS. 14 15 DWAYNE MCGEE, **ORDER** 16 aka Jeff McGee 17 Defendant. 18 19 Comes now Defendant Dwayne McGee true name Dwain McGee by and through 20 CJA assigned counsel to be, Donald H. Heller, hereby moves pursuant to Rule 10(b) of the 21 Federal Rules of Criminal Procedure for an Order pursuant to Rule 10(c) of Rule 10, 22 permitting the Defendant to waive is physical appearance for arraignment before the U.S. 23 24 Magistrate Judge on June 18, 2009, at 2 p.m. and enter a not guilty plea and schedule the case 25 for a status conference before the Hon. Morrison C. England, U.S. District Judge on a date 26 convenient to the Court and the United States Attorney. 27 28 APPLICATION AND ORDER PURSUANT TO RULE 10 CASE NO. 2:09-CR-184 MCE

APPLICATION AND ORDER PURSUANT TO RULE 10 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE TO WAIVE PERSONAL APPEARANCE OF THE DEFENDANT

- 1. Defendant resides in Pittsburgh, Pennsylvania and will make all future court appearances as is required by the Court.
- 2. Defendant Dwayne McGee true name Dwain McGee, hereby affirms under the penalty of perjury that he is the named defendant in this matter which charges a felony by indictment. Defendant's true name is Dwain McGee and his first name is misspelled in the Indictment as Dwayne. Defendant resides in New Kensington, PA which is a suburb of Pittsburgh, PA. Defendant affirms that he has been provided with a copy of the indictment and has authorized his soon to be appointed CJA panel attorney Donald H. Heller, to enter a not guilty plea and set the matter for a status conference before the Hon. Morrison C. England, U.S. District Judge on a dated convenient to the Court and the United States Attorney. Mr. Heller is authorized to exclude time based on his need to review the discovery that will be provided shortly by the government under the appropriate local Codes for preparation and perhaps complexity.
- I, Dwain McGee, indicted incorrectly as Dwayne McGee declare that the preceding paragraphs numbered 1 and 2 are true and correct under the penalty of perjury under the laws of the United States of America. Executed in Pittsburgh, Pennsylvania this ____15____ Day of June 2009.

/s/ Dwain McGee Dwain McGee

I, Donald H. Heller, declare under the penalty of perjury that I have been requested by the CJA Coordinate Mr. Kurt Heiser to represent the Defendant Dwayne McGee, who true name is Dwain McGee in this matter and that the appropriate paperwork is in the process of being submitted to the Court for approval and execution. The defendant has been provided with a copy of the indictment and has advised me to waive his appearance in the U.S. District Court for the Eastern District of California and enter a not guilty plea for him and schedule

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the case for a status conference before the Hon. Morrison C. England, U.S. District Judge on a dated convenient to the on a date convenient to the Court and the United States Attorney. I further advised the defendant of the federal speedy trial act rules and that I recommended that he consent and request to exclude time under federal law because doing so was in his interest.

I, Donald H. Heller, declare that the preceding paragraph is true and correct under the penalty of perjury under the laws of the United States of America. Executed this 12th Day of June 2009, in Sacramento, California.

Dated: June 16, 2009

/s/ Donald H. Heller DONALD H. HELLER VS.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA | CASE NO. 2:09-CR-184 MCE

Plaintiff,

ORDER

DWAYNE MCGEE,

aka Jeff McGee

Defendant.

GOOD CAUSE APPEARING, it is hereby ordered that Defendant Dwayne McGee's application pursuant to Rule 10(b) of the Federal Rules of Criminal Procedure for an Order pursuant to Rule 10(c) of Rule 10, permitting the Defendant to waive his physical appearance for arraignment before the U.S. Magistrate Judge on June 18, 2009, at 2 p.m. and enter a not guilty plea and schedule the case for a status conference before the Hon. Morrison C. England, U.S. District Judge on a date convenient to the Court and the United States Attorney. Attorney Donald H. Heller will appear in this Court on June 18, 2009, for the

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arraignment proceedings waiver and the scheduling of a status conference before Judge England.

IT IS SO ORDERED

Dated: June 16, 2009.

J.S. MAGISTRATE JUDGE